

AFFIDAVIT OF JAMES GILLIGAN

JAMES GILLIGAN states as follows:

1. I am Vice President of Sales and Marketing at Fusite Corporation. I have held that position since 1991.
2. In my position as Vice President of Sales and Marketing, I am responsible for negotiating with Fusite's customers and potential customers concerning the pricing and availability of, among other things, HVAC glass-to-metal seals and terminal blocks.
3. I understand that a lawsuit has been filed by Ashton Plastic Products, Inc. against Fusite Corporation. I have reviewed the First Amended Complaint filed by Ashton.
4. In particular, I have read Paragraph 12 of the First Amended Complaint, which states that "Fusite was forcing customers, including customers such as Trane and Bristol, to purchase its terminal blocks if it wanted to purchase its glass-to-metal seals" and "Fusite was using its appreciable economic power in the glass-to-metal seal market (the tying market) to force unwanted purchases of its terminal blocks (the tied market)."
5. The allegation that Fusite forced Trane, Bristol, or any customer to purchase Fusite's terminal blocks if the customer wanted to purchase Fusite's glass-to-metal seals is untrue. Fusite has never conditioned the sale of glass-to-metal seals on the purchase of terminal blocks, nor has Fusite ever "forced" a customer to purchase terminal blocks if it wanted to purchase glass-to-metal seals. Terminal blocks and glass-to-metal seals are and have been available from Fusite for separate purchase at all times, and customers can and do purchase Fusite glass-to-metal seals without purchasing Fusite terminal blocks and vice versa.

6. From time to time, Fusite may offer price discounts to customers who purchase certain volumes of glass-to-metal seals or terminal blocks and to customers who buy certain volumes of both products from Fusite. At no time do these price discounts represent a price reduction below Fusite's cost of producing the products. Furthermore, the availability of these discounts does not "force" any customer to buy both products from Fusite, as is evidenced by the fact that some customers choose to buy only one of the products from Fusite.

7. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By: 

JAMES GILLIGAN

Dated: December 3, 2003

Peoples' Republic of China

Bangkok, Thailand